

Article - Health - General

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§7-507.

(a) Subject to the limitations in this section, a petition for the release of an individual who is held under this subtitle from a State residential center may be filed, at any time, by:

(1) The individual; or

(2) Any person who has a legitimate interest in the welfare of the individual.

(b) The petition shall be filed in a circuit court for the county:

(1) Where the individual resides or resided at the time of the admission; or

(2) Where the State residential center is located.

(c) The Administration shall be the respondent in a petition under this section.

(d) The petition shall be in the form and contain the information that the Maryland Rules require.

(e) If the petitioner requests trial by jury, the trial shall be held with a jury as in a civil action at law.

(f) The trier of fact shall determine:

(1) Whether the individual has an intellectual disability;

(2) Whether for adequate habilitation, the individual needs residential services; and

(3) Whether there is a less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time.

(g) (1) The court shall remand the individual to the custody of the State residential center, if the trier of fact determines that:

(i) The individual has an intellectual disability;

(ii) For adequate habilitation the individual needs residential services; and

(iii) There is no less restrictive setting in which those services needed can be provided and which is available to the individual or will be available to the individual within a reasonable time.

(2) The court shall order that appropriate less restrictive services be offered to an individual, if the trier of fact determines that:

(i) The individual has an intellectual disability;

(ii) For adequate habilitation the individual needs residential services; and

(iii) There is a less restrictive setting in which the service can be provided, and which from evidence submitted by the Director is available or will be available to the individual within a reasonable time.

(3) The individual shall be released from the State residential center, if the trier of fact determines that:

(i) The individual does not have an intellectual disability;

(ii) For adequate habilitation the individual does not need residential services; or

(iii) There is a less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time.

(h) Any party may appeal from a decision on the petition as in any other civil case.

(i) Appropriate records of the proceeding under this section shall be made a permanent part of the individual's record.

(j) (1) After a determination on the merits of a petition under this section, a court may not hear a later petition for the individual within 1 year after that determination, unless:

(i) The petition is verified, and alleges an improvement in the condition of the individual with an intellectual disability after the determination; and

(ii) The court, after review of the verified petition, determines that the matter should be reopened.

(2) If the matter is reopened, the petition shall be heard as provided in this section.

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